BLAKE A. FIELD
3750 Doris Place
Las Vegas, Nevada 89120
(702) 436-9798
Pro Se Plaintiff

Blake A. Field VS Google, Inc., Doc. 1

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DEPUTY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

BLAKE A. FIELD,

Plaintiff,

vs.

GOOGLE, INC., a corporation

Defendant.

Case No.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

JURY DEMAND

COMES NOW Plaintiff Blake A. Field to file his complaint in the above entitled matter. To that end, Plaintiff alleges and complains of the Defendant as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Law of the United States (17 U.S.C. §§ 101 *et seq.*).

2. This Court has jurisdiction of this action under 17 U.S.C. §§ 101 *et seq.* and 28 U.S.C. §§ 1338(a) and (b).

3. This Court has personal jurisdiction over Defendant in that Defendant's contacts with this District are wide ranging and of a continuous and systematic nature and, in any event, Defendant has purposefully availed itself of the privilege of conducting activities in the State of Nevada in this instance by (1) reproducing copyrighted material from an internet server situated in Nevada, by (2) distributing copies of the copyrighted material in Nevada and by (3) engaging in intentional action expressly aimed at this forum which caused harm that the Defendant knew or should have known would likely be suffered in Nevada.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and ©).

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CV-S-04-0413-RCJ-LRL

Dockets.Justia.com

PARTIES

5. Plaintiff, Blake A. Field, is a talented creative writer. At all times pertinent to this Complaint, he has been a citizen of the United States and has held domicile in the city of Las Vegas, Nevada.

6. Defendant, Google, Inc., is a for-profit corporation organized under the laws of the State of California. Defendant maintains its principle place of business in the city of Mountain View, California.

PLAINTIFF'S COPYRIGHT

7. On January 16, 2004 Plaintiff registered the copyright in his original short story entitled *Good Tea* with the Register of Copyrights. The Certificate of Registration bears the number TXu1-130-900. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit A.

8. Plaintiff is the sole owner of the copyright in *Good Tea*. A true and correct copy of *Good Tea* is attached hereto as Exhibit B.

DEFENDANT'S ACCESS TO THE COPYRIGHTED WORK

9. After duly registering his copyright in *Good Tea*, Plaintiff published *Good Tea* to his website, located on the internet at http://www.blakeswritings.com/GoodTea.html.

10. The copy of *Good Tea* located at http://www.blakeswritings.com/GoodTea.html bears notice of copyright in the form of "© 2004 Blake A. Field" affixed to the top of the copy.

THE GOOGLE CACHE

11. Defendant operates and maintains as part of its popular internet search engine a feature it refers to as Google's cache.

12. Google's cache consists of third-party web page content copied to and stored upon servers owned and operated by Defendant.

13. Defendant makes copies of the third-party web page content stored in Google's cache available for distribution to members of the public.

14. When a user of Defendant's internet search runs a query on its search system, Defendant displays for that user a list of links to pertinent web pages that match the user's search terms. If a web page that is linked from the search result has been copied into Google's cache, Defendant also displays a link in its search results for the user to access Google's cache of the linked web page.

15. When an individual views particular third-party web page content stored in the Google cache, that person is actually viewing a copy of that content made by Defendant and distributed by Defendant to that individual's web browser. In other words, Google has distributed to that individual a copy of Google's cache copy.

16. Every web page reproduced from the copy stored in Google's cache and distributed by Defendant includes a notice that "This is Google's cache of [web page address]. Google's cache is the snapshot that we took of the page as we crawled the web."

17. Defendant does not seek authorization from copyright owners prior to reproducing and publicly distributing works stored in Google's cache.

18. Google's cache offers Defendant a competitive advantage over other internet search engines that do not offer their users a cache copy of third-party web page content.

19. Defendant has copied copyright protected content from millions of web pages to the Google cache and each day makes and distributes many copies of that content to users of Google's cache.

20. Google's cache is not a cache of the type outlined in 17 U.S.C. § 512(b).

DEFENDANT'S ACTS OF INFRINGEMENT

21. Defendant maintains a copy of *Good Tea* in Google's cache. That copy bears clear notice of Plaintiff's copyright in the form of: "© 2004 Blake A. Field."

22. Defendant creates a copy of *Good Tea* for and distributes that copy to anyone who directs his or her web browser to the following web address:

http://www.google.com/search?q=cache:5OPIRwcGcCEJ:www.blakeswritings.com/GoodTea.html+&hl=en&ie=UTF-8

23. Defendant has on several occasions created copies and distributed those copies of *Good Tea* to users of Google's cache. A true and correct printout of one such instance of Defendant's unauthorized reproduction and distribution of *Good Tea* occurring on March 23, 2004, with said distribution being made to a computer is Las Vegas, Nevada is attached hereto as Exhibit C.

24.. Defendant's reproduction of its cache copy of *Good Tea* violates Plaintiff's right to reproduce *Good Tea.*

25. Defendant's public distribution of copies of *Good Tea* violates Plaintiff's right to publicly distribute *Good Tea.*

26. All of the infringing acts of Defendant occurred after *Good Tea* was duly registered with the Register of Copyrights.

27. At no time has Plaintiff authorized the Defendant to reproduce, adapt, distribute, perform, publish or display *Good Tea* or any other work.

28. The acts of infringement by Defendant have been willful, intentional, purposeful, and in reckless disregard of and indifference to the rights of Plaintiff.

29. Defendant's reproduction and public distribution of *Good Tea* are not done for purposes of comment, criticism, parody or education.

30. The acts of reproducing and distributing *Good Tea* by Defendant do not constitute a fair use of the copyrighted work.

31. Defendant had knowledge that there were copyright infringement issues with Google's cache, yet continued operating Google's cache anyway.

32. Defendant has, in a similar manner to its infringement with regard to *Good Tea,* infringed 50 other copyrighted literary works published to www.blakeswritings.com. The registrations for those works are still before the Register of Copyrights. Plaintiff intends to move to amend this complaint once those Certificates of Registration have been approved. The effective date for those registrations is expected to be January 15, 2004.

33. By reason of Defendant's infringement, Plaintiff has sustained and will continue to sustain substantial injury, loss and damage to his rights in the copyrighted work.

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WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. That Defendant, its agents, servants, successors-in-interest and assigns be enjoined during the pendency of this action and permanently thereafter from infringing Plaintiff's copyright in *Good Tea* and other works of Plaintiff in any manner whatsoever.

2. For statutory damages in the amount of not less than $50,000 with respect to each copyrighted work infringed.

3. For such other and further relief as the Court deems just and proper.

DATED this 6 day of April, 2004.

BLAKE A. FIELD
3750 Doris Place
Las Vegas, Nevada 89120
(702) 436-9798
Pro Se Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED this 6 day of April, 2004

BLAKE A. FIELD
3750 Doris Place
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(702) 436-9798
Pro Se Plaintiff

EXHIBIT A

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Short Form TX
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TXu 1-130-900

Effective Date of Registration
JAN 16, 2004

Application Received
JAN 16, 2004

Deposit Received
One JAN 16, 2004 Two

Fee Received

Correspondence ☐ T&X

TYPE OR PRINT IN BLACK INK. DO NOT WRITE ABOVE THIS LINE.

Title of This Work Alternative title or title of larger work in which this work was published	1	Good Tea
Name and Address of Author and Owner of the Copyright. Nationality or domicile Phone fax, and email	2	Blake A Field 3750 Doris Place Las Vegas, NV 89120 Phone (702) 373-1022 Fax ( ) N/A Email bfield@thedictum com
Year of Creation	3	2004
***If work has been published,* Date and Nation of Publication**	4	a Date ______ Month ______ Day ______ Year ______ (Month day and year all required) b Nation
Type of Authorship in This Work Check all that this author created	5	☑ Text (includes fiction, nonfiction poetry computer programs, etc) ☐ Illustrations ☐ Photographs ☐ Compilation of terms or data
Signature Registration cannot be completed without a signature	6	*I certify that the statements made by me in this application are correct to the best of my knowledge* Check one ☑ Author ☐ Authorized agent X Blake Field
OPTIONAL **Name and Address of Person to Contact for Rights and Permissions.** Phone fax and email	7	☑ Check here if same as #2 above Phone ( ) Fax ( ) Email

8 Certificate will be mailed in window envelope to this address.

Name ▼ Blake A Field

Number/Street/Apt ▼ 3750 Doris Place

City/State/ZIP ▼ Las Vegas, NV 89120

Complete this space only if you currently hold a Deposit Account in the Copyright Office

9 Deposit Account # ______
Name ______

DO NOT WRITE HERE Page 1 of 1 pages

17 U S C § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409 or in any written statement filed in connection with the application shall be fined not more than $2 500

EXHIBIT B

Good Tea
By: Blake A. Field
© 2004 Blake A. Field

It's truly a rare find, a good tea. Most of the tea one can buy in the supermarkets have been run through so many mills and processes and sample groups that by the time you steep it, it's lost all of its tea character.

Tea is about simplicity. Simple flavors, simple aromas, simple preparation. It seems that somewhere we got away from the notion of simplicity as it relates to tea. Many of us must have it iced, some of us take it hot and combined with milk, and others are not satisfied unless they know that only the rarest of spices and ingredients are contained therein.

With that in mind, it is with the utmost joy that I can announce to you, the reader, that I've found a truly good tea. It's delicate and spicy, with a piquant aroma and a mellow, rewarding aftertaste. I'm such a fan that I've purchased a special electric hot pot which keeps the water at just the right temperature so that at any moment the urge strikes me, I can go and pour myself a cup of tea.

Like I've said before, this is a really, really good tea. So I'm pouring and steeping like its my job, as it seems there is never enough to satiate my need to taste this exotic blend. Sometimes I get so excited about the tea that I forget that it's scalding hot, and I burn my tongue and mouth badly with the liquid I so desperately need.

If I have to burn myself severely to get the tea that I need into my person, so be it. I'm willing to make that sacrifice, if it means being able to enjoy another taste of this delicious, seemingly intoxicating beverage.

I think that I'm going to write a letter to the company informing them of my love for their product and thanking them dearly for its manufacture. Maybe if I sound off about it loudly enough they'll send me a free sample. Then I can have more tea.

EXHIBIT C

This is G o o g l e's cache of http://www.blakeswritings.com/GoodTea.html.
G o o g l e's cache is the snapshot that we took of the page as we crawled the web.
The page may have changed since that time. Click here for the current page without highlighting.
To link to or bookmark this page, use the following url: http://www.google.com/search?q=cache:5OPIRwcGcCEJ:www.blakeswritings.com/GoodTea.html+&hl=en&ie=UTF-8

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Help defeat the purple man.
www.blakeswritings.com

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By: Blake A. Field
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[Home] [Links] [E-Mail]